

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KITSAP COUNTY

CITY OF BREMERTON, a Washington
municipal corporation,

Plaintiff,

vs.

NATACHA SESKO,

Defendant.

Case No.: 07-2-01698-0

DECLARATION OF MARK E.
KOOONTZ IN SUPPORT OF
PLAINTIFF'S SECOND MOTION
TO CONTINUE TRIAL DATE AND
AMEND ORDER SETTING TRIAL
DATE AND CIVIL CASE EVENT
SCHEDULE

I, Mark E. Koontz, declare as follows:

1. I am an Assistant City Attorney for Bremerton, Washington, representing the plaintiff in this matter, am over the age of eighteen and am competent to testify herein.
2. On February 19, 2009, the City inspected the property at issue.
3. On April 10, 2009, the City noted defendant's deposition for April 21, 2009. Ms. Sesko's lawyer, Alan Middleton, requested a continuance due to a scheduling conflict, and the City granted a continuance. The parties agreed to continue the deposition to May 15, 2009.

1 4. On May 7, 2009, Mr. Middleton emailed me, stating that defendant would be
2 represented by Charmaine Clark. Attached hereto as Exhibit A is a true and correct copy
3 of Mr. Middleton's email to me.

4 5. On May 8, 2009, I telephoned Ms. Clark to discuss the upcoming deposition and
5 other issues related to the case. I received her voice mail, so I left a message on her voice
6 mail. I identified myself and told her whom I represented and asked her to return the call.
7

8 6. Ms. Clark did not return my call, but she emailed me on May 13, 2009. Attached
9 hereto is as Exhibit B is a true and correct copy of Ms. Clark's email to me and my
10 response to her. Ms. Clark requested a continuance of the deposition, but she did not
11 attach a notice of withdrawal and substitution. I immediately returned Ms. Clark's email,
12 granting a continuance to the deposition and providing available dates to reset the
13 deposition. I informed Ms. Clark that the discovery cutoff is set for June 29, 2009 and the
14 trial date is October 26, 2009, and I requested that Ms. Clark enter into a stipulation and
15 order to continue these dates under the circumstances. I did not receive any response
16 from my email.
17

18 7. On May 19, 2009, since I had not received any further correspondence from Ms.
19 Clark and since the City had not been served a notice of withdrawal and substitution, I
20 again called Ms. Clark and left a voice mail message for her requesting a return call. To
21 date, Ms. Clark has not returned my call.

22 8. On May 21, 2009, I emailed Mr. Middleton, copying Ms. Clark, asking when I
23 should expect to receive the withdrawal and substitution. Attached hereto as Exhibit C is
24 a true and correct copy of my email to Mr. Middleton and his reply to me. Mr. Middleton
25 informed me that he had signed a withdrawal and substitution and gave them to Ms. Clark
26

1 “at least two, probably three weeks ago.” In the email, Mr. Middleton copied Ms. Clark
2 and requested the status of the pleading.

3 9. To date, the City has not received a notice of withdrawal and substitution or any
4 indication from Ms. Clark whether she would agree to a continuance of the trial date and
5 discovery cutoff date.

6 10. Under the current circumstances, I do not believe that discovery can be completed
7 by June 29, 2009 or that the City will be prepared for trial by October 26, 2009. I believe
8 that if the Court continues the trial date to March 15, 2010, or any date thereafter, and
9 continues the other case events to comply with local rules, the City would be able to
10 complete discovery cutoff prior to the new discovery cutoff date and properly prepare for
11 trial. The City is serving both Mr. Middleton and Ms. Clark with this motion.
12

13 I declare under the penalty of perjury under the laws of the State of Washington
14 that the foregoing is true and correct. Signed this 27th day of May, 2009 at Bremerton,
15 Washington.
16

17
18 
19 _____
20 Mark E. Koontz
21
22
23
24
25
26

EXHIBIT A

Mark Koontz

From: Middleton, Alan [AlanMiddleton@DWT.COM]
Sent: Thursday, May 07, 2009 5:26 PM
To: Mark Koontz
Cc: charmaine@clclark-lawfirm.com
Subject: Sesko

Mark, please take note that Ms. Sesko is going to be represented from this point forward by another lawyer, Charmaine Clark. Formal notices of substitution will be filed in the next day or two. Ms. Clark will be acting in all matters DWT once represented Ms. Sesko in. By cc of this email, I'm providing Ms. Clark's email address.

The balance of Ms. Clark's contact info:

Charmaine L. Clark
Charmaine L. Clark PLLC
9226 Bayshore Drive NW, Suite 240
Silverdale, WA 98383
Tel: (360) 692-5200
Fax: (360) 692-1610

Thanks for courtesies you have extended over the past couple of years.

Alan Middleton | Davis Wright Tremaine LLP

1201 Third Avenue, Suite 2200 | Seattle, WA 98101
Tel: (206) 757-8103 | Fax: (206) 757-7103
Email: alanmiddleton@dwt.com | Website: www.dwt.com
Bio: www.dwt.com/lawdir/attorneys/MiddletonAlan.cfm

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5/26/2009

BREMERTON-000807

EXHIBIT B

Mark Koontz

From: Mark Koontz
Sent: Wednesday, May 13, 2009 9:39 AM
To: 'Charmaine Clark'
Cc: Janet Lunceford; Leighann Denton
Subject: RE: Natacha Sesko

Charmaine,

Thank you for your email. Per your request, I will continue the depositions set for Friday to a date convenient for all parties and counsel. Please be advised that the depositions were originally set for April 21, 2009, but Ms. Sesko requested a continuance, so this is the second continuance of these depositions requested by Ms. Sesko. I am available May 20, 28, June 3, 4, 15, 16, 17, 18.

You should know that in the 07-2-01698-0 case the case schedule sets the deadline for discovery cutoff at June 29, 2009 and the trial for October 26, 2009. I don't think we will be able to complete discovery by June 29, 2009 or be ready for trial by October 26. Therefore, I would like to stipulate to continue the trial date and move back all deadlines. Would you be agreeable to such a stipulation?

As for settling the cases, the City would certainly entertain any proposal Ms. Sesko may have. In fact, Mr. Middleton informed me in February 2009 that Ms. Sesko would provide the City a proposal for satisfying the judgment in the 97-2-01749-3 case, but she has yet to do so. Of course, the most efficient way to resolve these matters would be a global settlement that resolves all of these cases.

I look forward to your return to the office and our discussion of these cases.

-Mark

Mark E. Koontz
Assistant City Attorney
City of Bremerton
345 Sixth Street, Ste. 600
Bremerton, WA 98337
360-473-2345
mark.koontz@ci.bremerton.wa.us

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-----Original Message-----

From: Charmaine Clark [mailto:charmaine@clclark-lawfirm.com]
Sent: Wednesday, May 13, 2009 7:16 AM
To: Mark Koontz
Subject: Natacha Sesko

Mr. Koontz,

I have been retained by Natacha Sesko to represent her in the three matters currently pending with the City of Bremerton. I have not yet filed notices of substitution because my client is not in town to sign them.

It is my understanding that there are depositions scheduled for Friday, May 15. Please be

advised that I am unable to appear on that date and need to reschedule. Please send me some new dates for these depositions.

I will return on Monday, May 18, 2009. At that time, I would like to discuss these three cases with you.

I have been informed by Mr. Middleton that the City of Bremerton is not interested in settling these matters with Mrs. Sesko. I hope that is an inaccurate statement as I think that these matters can be resolved.

Charmaine L. Clark, Esq.
LAW OFFICE OF CHARMAINE L. CLARK, PLLC
9226 Bayshore Drive NW, Suite 240
Silverdale, WA 98383
(360) 692-5200 telephone
(360) 692-1610 facsimile
charmaine@clclark-lawfirm.com

EXHIBIT C

Mark Koontz

From: Middleton, Alan [AlanMiddleton@DWT.COM]
Sent: Thursday, May 21, 2009 4:46 PM
To: Mark Koontz
Cc: charmaine@clclark-lawfirm.com; Leighann Denton
Subject: RE: Sesko

I signed them and gave them to Ms. Clark at least two, probably three weeks ago. Charmaine, status?

From: Mark Koontz [mailto:Mark.Koontz@ci.bremerton.wa.us]
Sent: Thursday, May 21, 2009 4:36 PM
To: Middleton, Alan
Cc: charmaine@clclark-lawfirm.com; Leighann Denton
Subject: RE: Sesko

Hey Alan, I have not yet received a withdrawal and substitution. Any idea when I should receive it? I have left voice mail messages with Ms. Clark, but she has not returned them.

-Mark

Mark E. Koontz
Assistant City Attorney
City of Bremerton
345 Sixth Street, Ste. 600
Bremerton, WA 98337
360-473-2345
mark.koontz@ci.bremerton.wa.us

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Alan Middleton | Davis Wright Tremaine LLP

1201 Third Avenue, Suite 2200 | Seattle, WA 98101

Tel: (206) 757-8103 | Fax: (206) 757-7103

Email: alanmiddleton@dwt.com | Website: www.dwt.com

Bio: www.dwt.com/lawdir/attorneys/MiddletonAlan.cfm

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5/26/2009

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